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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,207	01/31/2002	William Pat Price	K35A0877	5665
35219	7590	11/23/2005	EXAMINER	
WESTERN DIGITAL TECHNOLOGIES, INC.			BORISSOV, IGOR N	
ATTN: SANDRA GENUA			ART UNIT	
20511 LAKE FOREST DR.			PAPER NUMBER	
E-118G			3639	
LAKE FOREST, CA 92630			DATE MAILED: 11/23/2005	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/066,207
Filing Date: January 31, 2002
Appellant(s): PRICE ET AL.

Howard H. Sheerin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/22/2005 appealing from the Office
action mailed 3/08/2005.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0144262	Plotnick et al.	10-2002
5,652,615	Bryant et al.	7-1997

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4 and 6-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2002/0144262) in view of Bryant et al. (US 5,652,615).

Plotnick et al. teach a system and method for alternative advertising in prerecorded media, comprising:

As per claims 1, 21 and 26,

- a. receiving a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data being embedded within the plurality of programming media segments [0060]-[0062];
- b. commencing presenting the at least one rich media segment on the selected channel [0062]-[0063];
- c. saving the alternative presentation data if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel [0063];
- c. displaying the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel [0062].

Plotnick et al. does not specifically teach that the alternative presentation data is presented *for a time period equivalent to an initial length of time for a*

presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.

Bryant et al. teach a system and method for broadcast of composite programs including secondary program content such as advertisements; said system and method comprising a composite broadcast signal; said composite broadcast signal including a program base segment (813) (Fig. 8) and alternating fill segment (812); said alternating fill segment (812) comprising *concurrently generated selectable advertisement segments (C and D)*; wherein said *concurrently generated selectable advertisement segments (C and D)* are *synchronized to a common time-base* (Figs. 3, 4 and 8; C. 4, L. 40-56; C. 8, L. 35-48). Said *common time-base synchronization* indicates that presentation of each of said selectable advertisement segments (C and D) starts at the same time, lasts the same amount of time, and ends at the same time regardless which segment is selected for said presentation. This inherently indicates that if, during presentation of the alternating fill segment (812) including selectable advertisement segments C and D, the advertisement segment C is switched to the advertisement segment D, the time of presentation of the segment D would be equivalent to an initial length of time for a presentation of the advertisement segments C less a length of time that the advertisement segments C has previously been presented.

Therefore, it would have been obvious to one having ordinary skill in art at the time the invention was made to modify Plotnick et al. to include that the alternative presentation data is presented for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented, as disclosed in Bryant et al. because it would advantageously allow to simplify the interactive presentation of different advertisement segments, and use less complex and expensive equipment at the transmitter and receiver sites, as specifically taught by Bryant et al. (C. 2, L. 7-14).

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As per claims 3-4, Plotnick et al. teach said system and method wherein presenting the alternative presentation data occurs simultaneously with presenting of at least one of the programming media segments of the broadcast stream [0059]-[0060].

As per claims 6-7, 9-10 and 11-12, Plotnick et al. teach said system and method, comprising:

- storing tracking information for the presenting of the alternative presentation data [0059]-[0060];
- transmitting the tracking information for the presenting of the alternative presentation data for storage in a database [0059]-[0060];
- storing tracking information for the presenting of the at least one rich media segment [0059]-[0060];
- transmitting the tracking information for the presenting of the at least one rich media segment for storage in a database [0059]-[0060];
- storing tracking information for the interruption of presenting of the at least one rich media segment [0059]-[0060];
- transmitting the tracking information for the interruption of presenting of the at least one rich media segment for storage in a database [0059]-[0060]; [0065]; [0088].

As per claims 8, 13-16, 18-20, 25 and 30, see reasoning applied to claims 1, 21 and 26.

As per claims 17, 22 and 27, Plotnick et al. teach said system and method wherein the alternative presentation data is stored on a hard disk drive [0063]; [0102]-[0125].

As per claims 23-24 and 28-29, Plotnick et al. teach said system and method wherein a channel change generates the signal indicating the interruption of the rich media segment [0064]-[0065]; [0088].

(9) Response to Arguments

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Applicant argues (page 4 of the Appeal Brief) that although Bryant discloses a broadcast system that broadcasts a plurality of programming media segments (program base segments 813 in FIG. 8) and a rich media segment (fill segment 812), Bryant does not disclose or suggest to display the entire fill segment 812 in the event the channel is interrupted; and does not disclose or suggest to display the fill segment 812 for a time period equivalent to an initial length of time for a presentation of the fill segment 812 less a length of time that the fill segment 812 has previously been presented.

In response to this argument, the examiner points out that Bryant was applied to show broadcast of composite programs including a primary program content such as a movie (a program base segment (813); Fig. 8), and a secondary program content such as advertisements (alternating fill segment (812)); wherein said alternating fill segment (812) comprises selectable advertisement segments (C and D). Said selectable advertisement segments (C and D are *concurrently generated* and synchronized to a common time-base (Figs. 3, 4 and 8; C. 4, L. 40-56; C. 8, L. 35-48). Said common time-base synchronization indicates that the presentation of each of said selectable advertisement segments (C and D) starts at the same time, lasts the same amount of time, and ends at the same time regardless which segment is selected for said presentation. This inherently indicates that if, during presentation of the alternating fill segment (812) including selectable advertisement segments C and D, the advertisement segment C is switched to the advertisement segment D, the

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time of presentation of the segment D would be equivalent to an initial length of time for a presentation of the advertisement segments C less a length of time that the advertisement segments C has previously been presented.

Applicant argues (page 5 of the Appeal Brief) that Bryant's disclosure to synchronize the fill segments to a common time base has nothing to do with the continued display of a fill segment (immediate or delayed) in the event the current channel is interrupted (e.g., when the channel is changed).

In response to this argument, the examiner points out that Bryant was applied to show a specific arrangement of selectable advertising segments (C and D) embedded into the broadcasted media segment, wherein said selectable advertising segments are available for presentation during the same period of time (See the response to the argument above). The feature the Applicant is arguing about (continued display of a fill segment in the event the current channel is interrupted or when the channel is changed) is disclosed in Plotnick et al. (See: [0062]-[0063] and a discussion above).

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

Igor Borissov
11/16/2005

A handwritten signature in black ink, appearing to be 'Igor Borissov', written over a horizontal line.

Conferees:

John Weiss 

Thomas Dixon 